

01
02
03
04
05
06
07 UNITED STATES DISTRICT COURT
08 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

09 JOSEPH M. TORRES,)
10 Plaintiff,) CASE NO. C11-1206-JLR
11 v.)
12 MICHAEL ASTRUE,) REPORT AND RECOMMENDATION
Commissioner of Social Security,)
13 Defendant.)
14 _____)

15 Based on the stipulation of the parties (Dkt. 19), the Court recommends that this case be
16 REMANDED pursuant to sentence six of 42 U.S.C. § 405(g) because significant portions of the
17 recording of the hearing held on April 9, 2010 are inaudible. (Dkt. 19.) On remand, the
18 Appeals Council will remand the matter to an Administrative Law Judge who shall afford
19 plaintiff a *de novo* hearing. The Court will retain jurisdiction over the action pending further
20 administrative development of the record. *See Melkonyan v. Sullivan*, 501 U.S. 89, 98-102
21 (1991). If the outcome of a *de novo* hearing is unfavorable to plaintiff, plaintiff may seek
22 judicial review by reinstating this case, rather than filing a new complaint. A proposed order

01 accompanies this Report and Recommendation.

02 DATED this 13th day of December, 2011.

03
04 

05 Mary Alice Theiler
06 United States Magistrate Judge
07
08
09
10
11
12
13
14
15
16
17
18
19
20
21
22